

Revised Item #49

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP TO
2 ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT ON
3 APPROXIMATELY 417.93 ACRES OF LAND GENERALLY KNOWN AS
4 WATERSEDGE PUD, LOCATED AT 3700 DOCTOR SCOTT DRIVE AND STATE
5 HIGHWAY 71 EAST.

6
7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

8
9 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base zoning district from interim rural residence (I-RR) district to planned unit
11 development (PUD) district on the property (the "Property") described in File C814-05-
12 0069 as approximately 417.93 acres of land being more particularly described by metes
13 and bounds in Exhibit A incorporated into this ordinance, generally known as the
14 Watersedge planned unit development, locally known as the property located at 3700
15 Doctor Scott Drive and State Highway 71 East, in the City of Austin, Travis County,
16 Texas, and generally identified in the map attached as part of Exhibit A.

17 **PART 2.** This ordinance, together with the attached Exhibits "A" through "H", shall
18 constitute the land use plan (the "PUD Land Use Plan") for the Watersedge planned unit
19 development district (the "PUD") created by this ordinance. The PUD shall conform to the
20 limitations and conditions set forth in this ordinance and in the Watersedge planned unit
21 development land use plan Exhibits A through B and on record at the Neighborhood
22 Planning and Zoning Department in File No. C814-05-0069. If the text of this ordinance
23 and the attached exhibits conflict, the ordinance applies. Except as otherwise specifically
24 provided by this ordinance, all other rules, regulations and ordinances of the City in effect
25 on the effective date of this ordinance apply to the PUD.

26 **PART 3.** The attached exhibits or copies of originals on file with the City of Austin
27 Neighborhood Planning and Zoning Department in File No. C814-05-0069 are
28 incorporated into this ordinance in their entirety as though set forth fully in the text of this
29 ordinance. The attached exhibits are as follows:

30 Exhibit A: Description of Property and Zoning Map
31 Exhibit B: Watersedge PUD Land Use Plan (sheets 1-5)
32 Exhibit C-1: Site Development Criteria (see Exhibit B-sheet 1)
33 Exhibit C-2: Additional Site Development Regulations Applicable to Mixed
34 Development Residential (a) and (b) (See Exhibit B-sheet 1)
35 Exhibit D: Permitted Use Table (See Exhibit B-sheet 1)

- 1 Exhibit E: PUD Notes (see Exhibit B-sheet 1)
2 Exhibit F: Slope Analysis and Water Quality Plan (sheet 3)
3 Exhibit G: Special Permitted Uses for PUD Area(s)
4 Exhibit H: Parks Trails Network Plan (see Exhibit B- sheet 5)
5

6 **PART 4.** In accordance with Section 25-2-411(A) (*Planned Unit Development District*
7 *Regulations*) of the City Code, the following regulations apply to the PUD instead of
8 otherwise applicable City regulations.
9

- 10 (A) Sections 25-2-491 (*Permitted, Conditional and Prohibited Uses*) and 25-2-492
11 (*Site Development Regulations*) of the City Code are modified to allow
12 development in the PUD to comply with the site development regulations and
13 permitted uses of the PUD land use plan.
14
15 (B) The definition of "site" set forth in Section 25-1-21(98) of the City Code is
16 modified to provide that the land included within the geographic boundaries of
17 the entire PUD is a single site for transfer of development purposes. The site
18 includes area within the PUD separated by a public street or other right-of-way.
19 The definition of the term "site" is not modified for the purpose of water quality
20 pond purposes.
21
22 (C) Green Building. All residential development shall comply with Austin Energy
23 Green Building Program (GBP) for a minimum one-star rating. All commercial
24 development shall comply with the GBP for a minimum one-star rating, or,
25 shall be designed and built according to the US Green Building Council's
26 Leadership in Energy and Environmental Design ("LEED™") Green Building
27 Rating System, Certified Level. Certification from either the GBP or the
28 LEED™ shall be met as specified by the version of the rating system current at
29 the time of design.
30
31 (D) At the time an application for approval of a site plan is submitted for
32 development of the Property, or any portion of the Property, an Integrated Pest
33 Management (IPM) plan shall be submitted to the Watershed Protection and
34 Development Review Department for review and approval.
35

36 The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of
37 the Environmental Criteria Manual that are in effect on the date of this
38 covenant.
39

- 1 (E) The following applies to Property that has an open waterway with an upstream
2 drainage area between 64 acres and 320 acres:

3
4 The building setback is 50 feet on either side of the centerline of an open
5 waterway. Improvements permitted within the setback are limited to trails, raw
6 water line by Travis County, a wastewater main to serve the Property, public
7 utility crossings, and one roadway crossing, or those improvements that may be
8 otherwise required by the City of Austin or specifically authorized in this
9 ordinance.

10
11 **PART 5.** This part is applicable to Parcel A-2A.

- 12 (A) Parcel A-2A as shown on Exhibit "B" shall be designated as a Fire/EMS station
13 site. If a site plan application for the Fire/EMS facility is not approved seven
14 years after the date the developer has delivered a letter of concurrence for the
15 roadway abutting the site as shown on the approved subdivision construction
16 plan or site plan to the Public Works Department, the land uses permitted on the
17 site shall be the land uses permitted on Parcel A-2, and the owner need not
18 dedicate Parcel A-2A to the City of Austin ("Termination Date"). The site
19 development regulations applicable to the site for construction of a Fire/EMS
20 station shall also apply to any other land use constructed on the site.
- 21
22 (B) Subject to the Termination Date, the owner of the Fire/EMS site authorizes the
23 City to file all development applications required for the construction of the
24 Fire/EMS facility, and agrees to dedicate (fee simple) the site to the City of
25 Austin upon approval of the Fire/EMS station site plan application.
- 26
27 (C) The owner of the Fire/EMS station site and the City may agree in writing to
28 relocate the Fire/EMS station site to another location within the PUD if the site
29 development regulations of the site proposed for relocation remain the same as
30 the original Fire/EMS station site, and accessibility from the site is acceptable
31 to the City. The Director of the Neighborhood Planning and Zoning
32 Department may administratively approve a revision of the PUD to reflect the
33 relocation of the Fire/EMS station site within the PUD.
- 34
35 (D) The City may release the designation of the Fire/EMS station site at any time
36 prior to the Termination Date if the City has determined that a Fire/EMS facility
37 will not be constructed on the site. Should the City releases the designation or
38 should the Termination Date expire, the document releasing the Fire/EMS
39 station site designation must be executed by the City Manager or designated

RESTRICTIVE COVENANT

OWNER: MAK Marshall Ranch, L.P., a Texas limited partnership

ADDRESS: 3809 Juniper Trace, Suite 203, Austin, Texas 78738

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 417.93 acre tract of land, more or less, out of the Jose Antonio Navarro Seven League Grant, Abstract No. 18, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by WHM Transportation Engineering, Inc., dated September 14, 2005, or as amended and approved by the Director of the Watershed Protection and Development Review Department ("Director"). The TIA shall be kept on file at the Watershed Protection and Development Review Department. At the request of the owner of the affected Property, an updated or amended TIA may be approved administratively by the Director.
2. All development on the Property is subject to the recommendations from the Transportation Review Section of the Watershed Protection and Development Review Department that are contained in memorandums, dated December 2, 2005 and March 31, 2006, attached as Exhibit "B" and incorporated into this covenant.
3. Should the City of Austin construct a Fire/EMS station on the Property, it shall be designed and constructed in a manner that is aesthetically pleasing and complementary with the established development standards for the Watersedge planned unit development. The exterior of the station will utilize neutral colors and will be constructed of stone, masonry, or a masonry based product, together with a metal roof. Any glass elements used on the exterior of the building shall be non-reflective.

1 Assistant City Manager, and the Director of Neighborhood Planning and
2 Zoning Department may administratively approve a revision of the PUD to
3 reflect the release of the Fire/EMS station site designation.
4

5 **PART 6.** The Parks Trails Network Plan is attached to this ordinance as Exhibit "H". The
6 developer of the Property has dedicated approximately 75 acres of land for park and open
7 space purposes, as conceptually shown on Exhibit "H". Parkland dedication requirements
8 have been met for all residential uses developed within the boundaries of the PUD.
9

10 **PART 7.** This ordinance takes effect on _____, 2006.
11

12
13 **PASSED AND APPROVED**
14

15
16 _____, 2006
17

18 Will Wynn
19 Mayor
20

21
22 **APPROVED:** _____

23 David Allan Smith
24 City Attorney
25
26

27 **ATTEST:** _____

28 Shirley A. Gentry
29 City Clerk
30

4. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval.
5. The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.
6. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
7. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
8. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
9. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2006.

OWNERS:

**MAK Marshall Ranch, L.P.,
a Texas limited partnership**

By: MAK Marshall Ranch, Inc.,
a Delaware corporation,
its general partner

By: _____
Curtis Davidson,
Vice President

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006 by Curtis Davidson, Vice President of MAK Marshall Ranch, Inc., a Delaware corporation, general partner of MAK Marshall Ranch, L.P., a Texas limited partnership, on behalf of the corporation and the limited partnership.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant